

U.S. District Court for the Southern District of Mississippi
CASE NO 15-CV-382



DECLARATION OF CHARLES L. LEARY SUPPORTING MOTION FOR SUMMARY
JUDGMENT

1. I was Secretary and Managing Director of Trout Point Lodge, Limited.
2. I have personal knowledge of the facts asserted below except when I indicate knowledge is based on information and belief.
3. Attached hereto as Exhibit "A" is a true copy of a DMCA counter-notice written by Douglas Handshoe I received from AWS.
4. Attached hereto as Exhibit "B" are true copies of emails I received from AWS in January, 2016.
5. Attached hereto as Exhibit "C" is a true copy of a decision of Hancock County Circuit Court dated January, 2017.
6. I recall that in dealing with AWS over infringement notices, I discovered after AWS had told me that public access to publication of the photographs was disabled, I was able to readily access the photographs at the URL: http://slabbed.org/wp-content/uploads/2012/01/DMCA_SUSPENSE/. I notified AWS of this fact, and then the photographs disappeared from publication for a short period of time until I received the counter-notice.
7. The photograph subject to the counter-notice was a photograph registered with the Canadian Intellectual Property Office in 2013 that is a photo of Trout Point Lodge. I personally registered the photograph with the Intellectual Property Office.
8. All four photographs at issue in this case were first published in Canada and all were taken in Canada with the exception of the photograph of Mr. Perret and I at the Geotourism Summit.
9. In 2014, I personally viewed the drawing of Chris Yount's minor child published on the Slabbed site; this is the drawing referred to in the legal decisions *Yount v. Handshoe*, 171 So. 3d 381 (La. Ct. App. 2015) and *Handshoe v. Abel*, Civil Action No. 1: 14-CV-159-KS-MTP (S.D. Miss. Jan. 8, 2016).
10. I also viewed the photograph taken of me by the National Geographic Society in 2010 published on Slabbed. To my knowledge, this photograph remains published on Slabbed today. It belongs to the National Geographic Society, and I signed a contract with them allowing the Society to take my photographic portrait.
11. As I have stated before, Douglas K. Handshoe and Slabbed New Media have no permission to display, copy, distribute or make available any photographs belonging to me or to Trout Point Lodge, Limited (n.k.a. Nova Tourism & Hospitality Limited). They have never had such permission.
12. Attached hereto as Exhibit "D" is a true copy of a Domain Tools "Domain Report" for slabbed.org that I ordered and paid for on December 26, 2018.
13. Attached hereto as Exhibit "E" is a true copy of a domain Whois report that I viewed and downloaded on June 18, 2015.
14. Attached hereto as Exhibit "F" is a true copy of copyright registration records from the United States Copyright Office. Both copyrighted materials contain within them copyrighted photographs belonging to Trout Point Lodge whose United States rights were transferred to me. This includes a photograph authored by Marilyn Smulder and in the YouTube video also a photograph of Vaughn Perret and I authored by Kara Crowell.
15. In addition to operating tourism accommodations and restaurants, I am also an author and photographer. I am co-author of *The Trout Point Lodge Cookbook: Creole Cuisine from New*

Orleans to Nova Scotia, published simultaneously by Random House in the United States and Canada in 2004. I was for about a year a regular columnist and photographer relating to food trends for a major Canadian daily newspaper. I have authored recipes in a number of publications in the U.S., Canada, and United Kingdom. My photography has appeared in a number of publications including *The Small Luxury Hotels Cookbook*, the *Toronto Star*, the Fodor's travel guide web site, the *Times-Picayune*, and *Travel & Leisure* magazine. I have also authored academic articles and articles about sustainable agriculture that included my photographs. Photographs of me have appeared in my cookbook, in *Food & Wine* magazine, *A Taste of Relais & Chateaux* cookbook, *32 Inspirational Chefs*, Ashoka Changemakers web site, Canada's *Financial Post*, the *Halifax Chronicle-Herald*, *Nova Scotia Open to the World* magazine, the *Yarmouth Vanguard*, the *New Orleans Times-Picayune*, and the *Toronto Star*. I have in the past frequently been called upon to provide photographs of myself to publications.

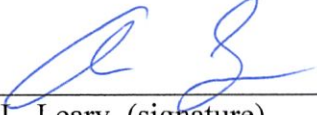
16. Mr. Handshoe and I have had an extremely contentious history. He began publishing about me in 2010, something that accelerated in frequency and furor in 2011. All of his Slabbed publications about me, and picturing me using photographs that don't belong to him or Slabbed, remain online today. Mr. Handshoe has falsely accused me of participation in crimes since 2010. He has also published extremely homophobic material and remarks about me, and others. I have never personally met Mr. Handshoe and had absolutely no connection to him until he started publishing about me on his blog, Twitter, and other places online like ripoffreport.com. When I sent Mr. Handshoe a notice of intended action in 2011, which is like a cease and desist letter, he ignored it and continued to publish his false conspiracy theory about me. I have never participated in any corrupt or criminal practices by Aaron Broussard, real or imagined. I have never been accused of money laundering or perjury by anyone except Mr. Handshoe and other mostly anonymous people who post on Slabbed. I have never been contacted by any law enforcement or prosecutorial authorities related to Mr. Broussard's alleged or actual crimes. Both Fox 8 New and the *Times-Picayune* issued retractions of material published in January, 2010, that in any way suggested that my business was involved in any way with corrupt practices by Aaron Broussard. Mr. Handshoe refuses to believe those retractions.
17. Attached hereto as Exhibit "6" is a true copy of property tax records from Harrison County, MS, that show a name change in property ownership apparently during 2016.
18. When I appeared before Nova Scotia Supreme Court in May, 2011, I did not know beyond a reasonable doubt, or even on the balance of probabilities the identity of Sop81_1 who was the main publisher and author of Slabbed. Attached hereto as Exhibit "H" are true copies of the archive.org Slabbed main page and "contact" page from May 11, 2011. Nowhere is Mr. Handshoe identified (except as Sop81_1).
19. Attached hereto as Exhibit "T" are true copies of emails I received from Wordpres.com/Automattic, Inc. regarding a Nova Scotia Supreme Court Order.
20. Attached hereto as Exhibit "J" is a true copy of a certified transcript of a decision hearing before Justice Muise of Nova Scotia Supreme Court, May 31, 2011.
21. Attached hereto as Exhibit "K" is a Mississippi court reporter's transcript of the testimony of Douglas Handshoe in U.S. Bankruptcy Court on June 2, 2016.
22. I am a plaintiff in a legal action in Nova Scotia Supreme Court against Coltsfoot Publishing, Andrew Speller, Andrew Douglas, and others. I have lived in Nova Scotia for many years. Coltsfoot publishes *Frank* magazine provincewide in Nova Scotia. In providing discovery in that case, Andrew Douglas, the editor of *Frank* magazine, provided me with copies of two-way email exchanges between reporter Andrew Speller and Douglas Handshoe in 2013. In May, 2013, Handshoe filed a lawsuit in Hancock County Circuit Court against a "John Doe." He had me served with a summons in that action although I was not a defendant. He also filed suit against Aaron Broussard and others. I saw an email from Handshoe to Andrew Speller dated

May 21, 2013, in which Handshoe provided a copy of the John Doe lawsuit to Frank magazine so that they could publish about it, including allegations that I was involved in defamation. Handshoe also sent the lawsuit to other bloggers.

23. On May 22, 2013, Handshoe wrote to Speller and stated: "Once I have service on Broussard and certain of his codefendants, I will send you a stamped copy of what was filed yesterday in Hancock County Circuit Court. I think it will be of great interest." On May 27 Handshoe wrote to Speller and stated: "Correct, the Randall Cajun suit has been served on Abel and is public. The other suit has not yet been served (I expect that later this week) and is off record until then." On May 29, 2013, Handshoe sent a copy of his RICO lawsuit against Aaron Broussard, Daniel Abel, others, and myself to Andrew Speller. I saw the above emails. Frank magazine subsequently published about the Handshoe lawsuits. I also have personally seen Frank magazine articles and other material published on Slabbed. Coltsfoot granted Handshoe permission to publish their material, therefore creating a circle where Handshoe would feed Frank information and lawsuit, and then use the Frank publications to further his publications and online attacks on me. True copies of the above emails were submitted into evidence on a motion in Nova Scotia Supreme Court Case No. HFX409679 and are public record. Attached hereto as Exhibit "L" is a true copy of a screenshot of one of the *Frank* magazine articles as published online. Attached hereto as Exhibit "M" are some of the email exchanges between Speller and Handshoe as filed with the court. I no longer have access to all of them (they are with my attorney), but I have reviewed my original notes where I copied text from the emails at the time.
24. Today, I viewed the YouTube video Douglas Handshoe produced at https://www.youtube.com/watch?v=M_pc4bjaLno. It is in live publication and features two of the copyrighted photographs at issue in this case, both used in their entirety.
25. I have tried to download the images on public display, which are at issue here, from slabbed.org. All are made available for download. In addition, Mr. Handshoe has posted a Creative Common license statement on the web site, encouraging third parties to copy content on slabbed.org.
26. I recently reviewed billing statement from Purvis & Co law firm related to this case. \$13,780.00 in fees accrued in 2016, and 41,845.00 in 2017, before Mr. Purvis withdrew. This totals: \$55,625.00.
27. Mr. Handshoe suing me has also caused me anxiety and distress for years, including prominently sleeplessness, fever blisters, and elevated blood pressure. My reputation as an academic, author, tourism innovator, chef, and entrepreneur were also damaged, particularly by the publication of Mr. Handshoe's press release and a copy of the original complaint in this case on Jackson Jambalaya. At least two other web sites I have found also published the press release. I have a concrete knowledge that anyone looking into my background who does not know me will find out about Mr. Handshoe's false allegations that he maliciously published and put into the public record of this case.
28. As a result of Mr. Handshoe's counter-notice, the photographs to which I hold the United States rights were also placed back into infringing publication during the pendency of this lawsuit.
29. I have also expended time--hours--and resources dealing with AWS regarding the counter-notices, and have incurred postal courier charges, PACER charges, court reporter charges, and costs such as purchasing the Domain Tools Domain Report.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on Dec 30, 2015 (date).



Charles L. Leary (signature)